

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. Following a decision by the Board in Fair Hearing No. 19,153 (dated March 25, 2005) it appears that the

petitioner filed an application for Medicaid for her daughter based on disability. However, the petitioner's daughter already receives Medicaid as a dependent child of disabled parents.

3. It is not clear whether the petitioner filed a separate application on her daughter's behalf for SSI disability benefits through the Social Security Administration. At any rate, the petitioner alleges that she was informed by the Vermont Disability Determination Services (DDS) that it would not consider her daughter's disability because she is financially ineligible for SSI due to her parents' income.

4. DDS is an agency within the Vermont Agency of Human Services that renders determinations of disability for applicants for various state and federal programs, among them Medicaid and SSI. SSI is a federal program administered by the Social Security Administration (SSA). DDS makes SSI disability determinations for Vermont residents pursuant to a contract with SSA. However, neither the Vermont Agency of Human Services nor the Human Services Board has any jurisdiction regarding SSI determinations. Appeals of SSI determinations are handled solely under the federal policies and procedures of SSA.

5. Based on the petitioner's representations, and those of her advocate (who is her daughter's psychiatrist), during a telephone hearing held in this matter on September 8, 2005, it does not appear that the petitioner has filed any appeal through SSA regarding any determination that has been made regarding her daughter's eligibility for SSI.

ORDER

The Department's decision is affirmed.

REASONS

As was discussed in the Board's decision in Fair Hearing No. 19,153, the Food Stamp regulations limit deductions from income to those specifically itemized in the regulations. One of those deductions is described in Food Stamp Manual (F.S.M.) § 273.9(d)(3) under "Excess Medical Deduction". However, eligibility for this deduction is specifically limited to a "household member who is elderly or disabled as defined by 271.2. Spouses or other persons receiving benefits as a dependent of the SSI or disability and blindness recipient are not eligible to receive this deduction. . ."

A "disabled" person is defined by § 271.2 (referred to above) as one who "receives" federal SSI or Social Security

disability "benefits". As was expressly held in Fair Hearing No. 19,153, the Department has correctly determined that expenses for medical items used exclusively by the petitioner's daughter, *who does not receive any federal benefits based on her own disability*, are not subject to a deduction from the petitioner's household income under Food Stamps.

The petitioner alleges that her daughter is, in fact, "disabled". However, there does not appear to be any cash or medical benefit administered by the Vermont Agency of Human Services that would be affected solely by an official determination of disability for her daughter. Her daughter already receives full medical coverage under Medicaid. (See W.A.M. §§ M300 *et seq.* & M2400 *et seq.*) A family's eligibility for and amount of cash benefits under RUFA are in no way affected by the medical status of a minor child. (See W.A.M. §§ 2200-2399.) For Food Stamps, see *supra*, qualifying for an excess medical deduction depends on an individual's status as an SSI *recipient of benefits*, not merely a determination of "disability" under that, or any other, program.¹

¹ The petitioner maintains that the Department's district office informed her that her daughter could qualify for an excess medical deduction under

There is no dispute in this matter that *if* the petitioner's daughter was *receiving SSI benefits* she would qualify for an excess medical deduction for Food Stamps. There is also no dispute that in order to qualify for SSI benefits the petitioner's daughter would have to be found "disabled" under SSI criteria. Clearly however, this is not a determination either the Board or the Department can make.² At the hearing in this matter the petitioner was advised to follow up with the Social Security Administration if she feels her daughter should be receiving SSI benefits and whether DDS improperly handled her daughter's application for SSI.³

At this time, however, it is clear that the petitioner's household is receiving the maximum medical and Food Stamp

Food Stamps solely by being determined disabled—regardless if she receives SSI benefits. Unfortunately, this information, if it was given, is clearly incorrect under the above regulations; and it cannot, in and of itself, form the basis of a favorable decision for the petitioner in this appeal.

² The disability *criteria* for Medicaid are identical to SSI. As noted above, Medicaid is a program administered by the Department. However, a Medicaid disability *decision* is not binding upon SSA for purposes of SSI. Inasmuch as the petitioner's daughter already receives Medicaid the petitioner has nothing to gain by seeking a Medicaid disability decision. Her appeal in this regard lies solely with SSA.

³ The petitioner's advocate also indicated at the hearing that the petitioner's daughter is in need of certain educational services based on her disability. The petitioner was advised to contact her local school district or the Vermont Department of Education in this regard, in that the Agency of Human Services does not administer any educational benefits or services to children.

benefits to which it is entitled.⁴ Therefore, the Board is bound by its rules to affirm the Department's decision. 3 V.S.A. 3091(d), Fair Hearing Rule No. 17.

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⁴ There is no question that the petitioner's situation is complicated and frustrating. At the hearing the hearing officer strongly urged the petitioner and her advocate to contact Law Line or Vermont Legal Aid for legal assistance in determining which other programs and benefits this family may be eligible for.